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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
Sixty-first session

Summary record (partial)* of the 1312nd meeting
Held at the Palais des Nations, Geneva, on Thursday, 9 July 2015, at 3 p.m.

Chairperson: Ms. Hayashi

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined fourth and fifth periodic reports of the Gambia (continued) (CEDAW/C/GMB/4-5 and CEDAW/C/GMB/Q/4-5)

1. *At the invitation of the Chairperson, the delegation of the Gambia took places at the Committee table.*

Articles 10 to 14

2. **Ms. Chalal** asked whether the State party intended to decriminalize abortion and expand the grounds on which it could be performed to include cases of rape, incest and foetal impairment. She said that further information was needed on the impact of unsafe abortion on women's health, including the maternal mortality rate. She also wished to know the prevalence of early pregnancies and the measures envisaged to increase the availability and accessibility of age-appropriate comprehensive sexual and reproductive health care and education, including modern contraception methods. What measures had been adopted to address the persistently high rates of maternal and infant mortality, particularly among ethnic minority groups, and the persisting lack of access to basic health-care services, including essential obstetric care, trained personnel and modern medical equipment, especially in rural areas? Lastly, she asked what programmes had been introduced to support women with HIV/AIDS and prevent mother-to-child transmission of the disease.

3. **Ms. Graham** (Gambia) said that, despite the de jure prohibition of abortion, women could, in practice, request an abortion in cases of rape or incest. As to early pregnancy, the Government had implemented a range of policies to encourage teenage mothers to continue their education following the birth of their child. However, there had been some reports of bullying and hostility towards teenage mothers upon their return to school. Specialist counselling and support was provided to women with HIV/AIDS and numerous measures had been adopted to prevent mother-to-child transmission, such as the provision of breast-milk substitutes to nursing mothers, which had led to a reduction in the number of HIV/AIDS cases recorded over recent years. Steps had also been taken to make HIV/AIDS tests and condoms available to women sex workers.

4. **Ms. Jahan** asked what measures had been introduced to increase the school enrolment rate of girls, particularly at the tertiary level, which remained low; to reduce the school dropout rate among girls; to eliminate economic, social and cultural obstacles to girls' access to education, including child and forced marriage and adolescent pregnancy; to eliminate stereotypical attitudes about the roles and responsibilities of women and men in textbooks; and to increase the number of women teachers and university professors.

5. **Ms. Graham** (Gambia) said that she would provide detailed written replies concerning the State party's implementation of articles 10 and 11 of the Convention at a later date. However, it should be noted that the Government faced ongoing financial constraints that restricted its ability to mainstream gender across all of its policies. Concerted efforts had been made to improve access to education for girls, but further work would be required to combat negative gender stereotypes and early and forced marriage and to improve the enrolment rate of girls at the secondary and tertiary levels. There were very few, if any, opportunities for girls with disabilities to attend mainstream schools and universities.

6. **Ms. Patten** asked whether measures had been taken to improve the social protection afforded to women working in the informal sector and to promote their transition to the formal sector. She also wished to know what efforts had been made to address the gender pay gap and combat sexual harassment in the workplace.

7. **Ms. Graham** (Gambia) said that cases of sexual harassment against women in the workplace were punishable by law and women could report their cases to the police for criminal investigation.

8. **Ms. Pomeranzi** asked whether steps would be taken to promote women's economic empowerment and facilitate their access to credit and loans so that they could start their own businesses. She also wished to know what measures had been adopted to ensure that rural women had equal access to landownership and management, agricultural support and economic opportunities, including income-generating projects and credit facilities, on an equal and equitable basis with men and with their urban counterparts. As for women with disabilities, she asked what efforts had been made to implement the provisions of the Convention on the Rights of Persons with Disabilities, particularly with regard to their access to education and employment. She also wished to know whether the State party intended to repeal the provisions prohibiting homosexual acts contained in the Criminal Code and to protect the lesbian, gay, bisexual and transgender community against persecution. Lastly, she asked what steps had been taken to improve the poor living conditions of women held in detention and to protect them against acts of gender-based violence.

9. **Ms. Graham** (Gambia) said that homosexuals were not prosecuted by virtue of being homosexuals; only their engaging in sexual activities was punishable. The Gambia did not recognize homosexual rights.

10. The Government had a number of peri-urban small scale improvement projects, such as small holding production credit schemes for mixed farming for the fattening of small ruminants, poultry and rabbits, and for dairy production, which had benefited rural women.

11. The national tourism plan for the period 2005–2015 provided women with the opportunity to engage in economic activities. Tourism gave rise to over 10,000 direct and indirect jobs. Rural women sold agricultural produce, poultry and vegetables to hotels and engaged in handicrafts, gardening and marketing. They received training which had enabled them to enter the tourism market and form associations. They also ran small and medium enterprises catering to tourists, such as hair dressing, juice processing, tailoring, manicure and pedicure businesses, and worked as tourist guides. The establishment of an investment bank called Reliance Financial Services provided access to investment finance for low-income women engaged in petty trading.

12. The Gambia Priority Employment Programme (GAMJOBS), working through the United Nations Development Programme (UNDP), was supporting a microfinance project and offering training on food production and processing, targeting the rural poor. It assisted women in the area of enterprise development, offering training for young entrepreneurs, and it provided vocational training for employment in agriculture. It also helped women enhance their agricultural proceeds by assisting them with fertilizers and methods of food preservation.

13. The Ministry of Trade and Employment had established a microfinance fund to promote equal access to financial resources and labour-intensive public work programmes in solid waste management and disposal, and women were given preference in those initiatives.

14. A project of the New Partnership for Africa's Development (NEPAD)/Spanish Fund for African Women's Empowerment, which had been implemented by the

National Women's Bureau, aimed to eradicate poverty among rural women by helping them to increase production and to enhance the ability of the Bureau to give support to women's group (*kafou*) gardens throughout the country. It built storage and processing plants and provided training.

15. Through the Ministry of Trade and Employment and with the assistance of the National Authorizing Officer Support Unit for the European Commission, the Government had organized trade fairs in which rural women had participated. The Chamber of Commerce provided a platform for rural women to showcase their work. The Government had developed an action plan to mitigate the adverse consequences of the food crisis and had programmes to support smallholder irrigation. In addition to the above-mentioned projects aimed at alleviating the suffering of the rural poor, a number of associations and organizations played a key role in advocating for women's access, ownership and control of productive resources, including land.

16. The Programme for Accelerated Growth and Employment, which was the successor to the second poverty reduction strategy paper of the Gambia, aimed to improve employment levels, per capita income, gender equity and the economic competitiveness of the country. In the past two decades, the Government had taken concrete action to mainstream women's issues into the development process and treated rural women and urban women equally. It had also enacted the Women's Act, stipulating that government departments and other public institutions must implement measures, policies and strategies to eliminate employment discrimination and segregation and to establish periodic training for personnel on gender issues.

17. Rural women submitted the titles of their properties as collateral to banks; it was to be expected that banks asked individuals seeking credit for collateral. However, rural women did have other means with which to improve their economic situation.

18. The children of rural women were not trapped in poverty; some were doctors, lawyers and the like, and most lived in urban areas and did not inherit the predicament of their parents.

19. Regarding women in power and decision-making, section 26 of the 1997 Constitution recognized the right of women to participate in political and public life. Policy decisions were geared towards effective gender representation in government institutions and the private sector.

20. Prison conditions tended to be extremely poor, and there were problems such as overcrowding. The Government was building a new prison centre a few kilometres away from the Banjul area. Women's detention centres, unlike men's, were not overcrowded because only a small number of women were convicted. Most were convicted for infanticide, baby dumping, drug trafficking, or fighting leading to death. Prison conditions had improved over the years, including the provision of television facilities, running water, waiting rooms, reception areas and libraries, and prisoners were fed three times a day. Male and female prisoners were housed separately, and the women and children's sections of prisons were not overcrowded.

21. **Ms. Pomeranzi** said that the programmes set up by the Government in partnership with the international development community displayed little synergy and often overlapped. What the Government was doing for rural areas was insufficient and too fragmented. Would the Government consider specific procedures for harmonizing resources and for dialogue with partners? Would it envisage procedures for setting benchmarks that would be easy to monitor and would provide information about what was happening at the local and community levels? Such strategies would enable the Government to measure the impact of the Women's Act of 2010 on women's landownership.

22. **Ms. Schulz** noted that infanticide was often the desperate act of a woman or girl confronted with a pregnancy that she could not accept, either because it was the result of rape or incest or because she was too poor, too young or already had too many children to be able to face another child and mouth to feed. It was often linked to repressive legislation on abortion, whereby women were not able or allowed to resort to safe legal abortion. Was prison the place for such women, or should the Government consider revising its legislation on abortion by broadening the circumstances under which abortion was permitted and imprisoning only those women who were threatening the public order rather than women who were the victims of socioeconomic conditions? In all countries, women who had sufficient resources and were well educated managed to prevent pregnancy, while poor women did not.

23. **Ms. Graham** (Gambia), referring to infanticide, said that those guilty of that crime were women whose husbands had travelled abroad, becoming pregnant during their absence. Infanticide had nothing to do with poverty; it was a personal choice. To take away the right to life was a very serious offence in the Gambia, for which there was no justification. It was an informed choice, the act was carefully considered, it was premeditated, and the intention was to kill and to inflict grievous bodily harm.

24. Returning to the issue of rural women, she said that section 23 of the Women's Act guaranteed the rights of women in rural communities and required all governmental bodies and private organizations to take measures to eliminate discrimination against women in rural areas. It also stipulated that the Government was to ensure that rural women participated in and benefited from rural development projects and that rural women had: the right to participate in the conceptualization, elaboration and implementation of such projects; the right to benefit directly from social security programmes; the right to access all types of training and education; the right to benefit from all community and advisory services; the right to access agricultural credit and loans, marketing facilities and appropriate technology; the right to equal treatment with regard to land; and the right to benefit from agrarian reform of landownership in land settlement schemes. Section 23 of the Women's Act recognized the problems faced by rural women, and made it the Government's responsibility to ensure that their rights were realized.

25. **The Chairperson** asked the Gambian representative why women committed infanticide if they had access to abortion and why her delegation had said that every clinic performed abortions, while women were imprisoned for infanticide for having such operations.

26. **Ms. Graham** (Gambia) said that the law did not take into consideration the intention of the perpetrator of the crime. People from neighbouring countries came to the Gambia to dump their babies or attempt to abort a foetus; that was criminal behaviour that had to be addressed by the law and for which there were penalties that had to be meted out. It had nothing to do with poverty or a lack of access to medical abortion centres.

27. **Ms. Gbedemah** said that she wondered why, if abortion was freely available, a woman would carry a pregnancy to term and go through labour only to strangle a child. The delegation's explanation that the women who committed infanticide had engaged in misconduct, and were traumatized and wanted a way out, showed that a particular mental state was probably influencing the process. There was a good reason why in most criminal courts there existed the opportunity to consider the mental condition of a woman who killed her child. There was medical recognition of the fact that if the woman did not have enough of a support system or backing in the post-birth period, she was capable of anything. In earlier times in Africa, when a woman had a child, her grandmother, aunt and other relatives were present. Driven by some of the above-mentioned factors, infanticide could happen, and therefore prison was not the

appropriate place for women in such situations. If the choice were there, women would not go through with a pregnancy, and if they had support, women would probably not kill their babies.

28. **Ms. Graham** (Gambia) said that only a negligible number of women were convicted for infanticide. By the time women came to the medical clinic — after the first trimester — it was too late to abort the foetus and that might be a contributing factor. However, the position of the law at the current time was as she had described earlier. The delegation would take the Committee's contributions into consideration.

29. **Mr. Marong** (Gambia) said that abortion was allowed when the pregnancy threatened the life of the mother or foetus, but indiscriminate abortion was not allowed.

Articles 15 and 16

30. **Ms. Gbedemah** stressed that if, as the delegation had stated, the Women's Act incorporated the provisions of the Convention, which prohibited any form of discrimination against women, then those provisions must inform court decisions involving women's rights. She said that the area of family law was especially important because it governed women's daily reality and she expressed concern that section 33, subsection 5, of the Constitution stated that the prohibition of discrimination did not apply in respect of marriage, divorce, adoption, burial and devolution of property on death, which were matters of personal law governed by customary and sharia law.

31. Drawing the delegation's attention to the Committee's general recommendation No. 29 on the economic consequences of marriage, family relations and their dissolution, and with reference to the *Matty Faye v. Dawda Jawara* case, where the court had declared that Ms. Faye was entitled to an equitable share of her matrimonial property, she asked whether equitable was the same as equal. She was also concerned by the statement in the delegation's responses that the courts took into account the Women's Act when it was invoked; given that women might not be aware of their rights or might not have legal counsel, the courts should automatically apply the provisions of the Act, which should take precedence over customary and sharia law even in personal matters.

32. She asked whether judges received training on the application of the Convention and the Women's Act, whether they actually applied the law, whether any follow-up took place to ensure that the Act was being implemented and whether the delegation could provide any examples of recent decisions involving the Act. The delegation should indicate whether the State party envisaged amending the Constitution to eliminate the exemption of personal law from its anti-discrimination provisions and follow the best practices of other Muslim countries in such areas as the minimum age for marriage, divorce and polygamy.

33. She was especially concerned that, although the Children's Act outlawed child marriage, approximately 8 per cent of married women in the 15–49 age group had been married before the age of 15 and 40 per cent had been married before 18. The delegation should provide information on any measures envisaged to prevent early or forced marriage, which had grave consequences for the health, education and independence of girls. The State party should monitor the situation and ensure that cases of early or forced marriage were prosecuted. In that context she stressed the need to ensure the registration of the births in order to know girls' true age, in particular in rural areas. Religious leaders must also be encouraged to adopt a liberal interpretation of customary and religious law that took into account girls' and women's rights.

34. **Ms. Graham** (Gambia) said that polygamy was an accepted aspect of Gambia's cultural diversity that would not soon change. While she did not exclude the possibility of discussing an amendment of section 33, subsection 5, of the Constitution to eliminate the exception of personal matters from its anti-discrimination provisions, she pointed out that pursuant to the Women's Act women already enjoyed equality to men in most areas, including civil matters, the workplace, access to justice and freedom of movement. She understood the Committee's concerns but reiterated that in the Gambian context personal matters were a matter of choice. Some religious leaders were more liberal and there might come a time when the religious community would recommend amending the Constitution, a recommendation the Government would surely implement.

35. With regard to birth registration, she said that only one parent needed to register a birth and did not even have to do it in person. Her Government would be willing to study the registration practices in other countries in consultation with religious leaders, who, she stressed, were not extremist. With regard to early marriage, she said that the Women's Act and Children's Act prohibited child marriage and noted that the Constitution required that the bride and groom must be of full age and capacity and that the marriage must have the free and full consent of the parties. There were civil society organizations that were working on the issue of early marriage; any dispute relating to marriage was resolved by binding judicial decisions. With regard to the *Faye v. Jawara* case, she said that "equitable share" meant the share of the matrimonial property to which the woman was entitled, which, under Islamic law, was one third.

36. **Ms. Acar** underscored that culture was a man-made thing that changed and evolved; cultural diversity could not be invoked as an excuse for violating human rights. She herself was from a Muslim country that had a secular legal system. The Convention was an international agreement that the State party must implement to protect the rights of women. The State party should prevail upon religious and traditional leaders to adopt a more flexible stance.

37. Since health care and family planning might be considered to come under personal law, she asked if Gambian women had free access to those services or whether, under Islamic law, they had to have their husband's permission. She also asked how the delegation could justify polygamy, which was a form of structural discrimination that could even lead to violence between women.

38. **Ms. Haidar** stressed that there were varying interpretations of the Koranic texts relating to the possibility of marriage; for example some said that polygamy should only occur in exceptional situations while others said that the woman must agree to a polygamous marriage. She did not agree that polygamy was an integral part of Islam; the overarching principle must be that of fair treatment of the woman.

39. **Ms. Gabr** pointed out that she came from a Muslim country where sharia law existed but where women's rights were respected overall and women lived a normal life with few restrictions. Egypt could perhaps serve as an example to the State party.

40. **Ms. Graham** (Gambia) said that in Gambia polygamy was not considered to be bigamy and had never been a source of friction within communities or between communities. Polygamy was even seen in a positive light in the Islamic community. The family links between communities and tribes strengthened social cohesion and contributed to the Gambia's peaceful and tolerant coexistence among religious, cultural and tribal groups. It would be difficult to induce people to change what they considered to be an excellent system. She knew of no cases of polygamy leading to violence among wives. With regard to women's access to health care and family planning, she said women's right to health was guaranteed by the Women's Act.

Women did not have to have their spouse's permission to seek such services, in particular in cases where a mother's life was at risk.

41. **The Chairperson** suggested that the delegation could provide written responses to any unanswered questions. She thanked the delegation for a constructive dialogue and encouraged the State party to address the Committee's recommendations with a view to a more comprehensive implementation of the Convention. She underscored the State party's obligation to eliminate social and cultural stereotypes regarding the roles of women and men and hoped that in the future the State party and the Committee would have closer views on cultural diversity.

42. **Ms. Graham** (Gambia) thanked the Committee members for their interest in the situation of women in the Gambia; the Committee's recommendations would be transmitted to the Head of State and the Ministry of Women's Affairs. She looked forward to the consideration of the next report, which she hoped would be equally fruitful.

The discussion covered in the summary record ended at 5 p.m.